

## **OPERATION AND MANAGEMENT CONTRACT**

This contract (the "Contract") entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008 and between SHELBY COUNTY GOVERNMENT, hereinafter referred to as "COUNTY" and AGRICENTER INTERNATIONAL, INC., hereinafter referred to as "CONTRACTOR".

### **WITNESSETH**

**WHEREAS**, the COUNTY owns property and improvements known as the Shelby Farms Show Place Arena ("Arena") and located at 105 South Germantown Road, Memphis Tennessee; and

**WHEREAS**, the COUNTY has the need to contract for the operation and management of the Arena; and

**WHEREAS**, the CONTRACTOR has agreed to operate and manage the Arena upon the terms and conditions set forth herein; and

**WHEREAS**, the parties are desirous of entering into a contract setting forth the terms and conditions under which the CONTRACTOR will provide said services.

**NOW THEREFORE**, for and in consideration of mutual promises and covenants herein contained, the parties hereto agree as follows:

### **I. SCOPE OF WORK**

1. The CONTRACTOR, in the performance of its duties as operator and manager, shall provide the services as outlined hereinbelow (the "Services"):
  - a. The CONTRACTOR shall operate, supervise and manage the Arena. Except as provided herein, CONTRACTOR shall receive and pay for all items and expenses required and incurred with respect to its management, supervision and operational obligations hereunder.
  - b. The CONTRACTOR shall manage the day-to-day operations of the Arena in accordance with all applicable laws, rules, statutes, ordinances and regulations.
  - c. The CONTRACTOR, as operator and manager of the Arena, shall assume full responsibility for Arena contracting and shall enter into any and all contracts on its behalf that it deems necessary and appropriate for the operation and management of the Arena and for events scheduled or to be scheduled at the Arena.
  - d. The CONTRACTOR will work cooperatively with the COUNTY to bring the Arena to an agreed upon level of acceptability as it pertains to repair and maintenance.

CONTRACTOR shall be responsible for all needed repairs, including equipment maintenance, building upkeep and repairs, all equipment replacement as required and all grounds maintenance, except for the particular items listed on Exhibit "A" attached hereto and incorporated herein fully by reference. This shall include keeping all areas free of litter and debris.

- e. COUNTY will continue to negotiate leases for the Arena until this Contract becomes effective. CONTRACTOR agrees to perform under all contracts executed prior to the effective date of this Contract for events at the Arena that are scheduled after this Contract becomes effective. COUNTY also agrees to turn over any prospective client list(s) to CONTRACTOR.
- f. The CONTRACTOR shall employ and provide such staff and personnel which are necessary to promptly and efficiently carry out the duties and responsibilities required under this Contract and specifically as upon the CONTRACTOR hereunder.
- g. The CONTRACTOR shall report immediately to the COUNTY any incidents or accidents which require emergency services (Police, Fire, Ambulance or Hospital services). All other incidents, accidents or damage of serious nature to the public at the Arena shall be reported to the COUNTY in writing within 48 hours.
- h. The CONTRACTOR shall manage the day-to-day needs and lease agreements of the leaseholders within the Arena.
- i. The CONTRACTOR shall control and secure the Arena and its contents. The Arena and related fixtures, furnishings and equipment supplied by the COUNTY shall be returned in good condition, reasonable wear and tear excepted, to the COUNTY upon termination or expiry of the Contract. The repair and replacement of any fixtures, furnishings and equipment shall be at the sole expense of the CONTRACTOR.
- j. The CONTRACTOR shall manage and operate all programs and services offered at the Arena including administering private rentals. The CONTRACTOR shall ensure that the Arena remain open for public use on the days and during the hours as agreed upon by the parties.
- k. The CONTRACTOR shall pay all utilities (water, sanitary sewer, electricity; natural gas) arising from the operation of the Arena.
- l. The CONTRACTOR shall maintain all landscaped areas.
- m. The CONTRACTOR shall provide street sweeping and snow removal services for the paved lanes and parking areas, on an as-required basis.
- n. The CONTRACTOR shall submit financial statements for the operation of the Arena for each year under this Contract to the COUNTY.

- o. The CONTRACTOR shall have the right to use its brand/logo and name on the Arena, and the right to announce the Arena is under new management to potential clientele, subject to prior written approval by COUNTY, which shall not be unreasonably withheld.
- p. The CONTRACTOR will carry insurance coverage(s) as required herein on all equipment, building contents and all Arena events, and shall require event holders to carry appropriate levels of insurance coverage. Each and every policy of insurance required by this Contract shall name the COUNTY as additional insured.

## **II. COUNTY RESPONSIBILITIES**

- 1. COUNTY will continue to carry insurance coverage on the building structure(s). COUNTY will maintain coverage for All Risks of physical loss or damage, subject to policy exclusions, on real property located at 105 South Germantown Road, Memphis, Tennessee, in a manner similar to current coverage provided by Factory Mutual. Deductible in the event of a claim is to be paid by COUNTY.
- 2. COUNTY will allow all existing equipment used in the Arena for event set up and tear down to remain for continued use by CONTRACTOR.
- 3. COUNTY will provide all maintenance for the first year of the Term of this Contract as to the particular items listed on the attached Exhibit "A". Thereafter, CONTRACTOR will assume all maintenance responsibility on the building (s) and equipment listed on the attached Exhibit "A" for the remainder of the Contract.
- 4. In accordance with all applicable laws, rules, ordinances, COUNTY policies and procedures, the COUNTY agrees to continue to perform or cause to be performed at the Arena the work that heretofore has been performed at the Arena by COUNTY inmates on a daily basis, subject to availability.

## **III. TERM AND COMPENSATION**

- 1. The term of this Contract (the "Term") will commence upon January 1, 2009 and continue through December 31, 2013. This Contract may be extended upon mutual written agreement of the parties for three additional five (5) year periods. Notice to the COUNTY must be provided by the CONTRACTOR, not less than two years prior to the expiration of any such five (5) year period.
- 2. It is agreed and understood between the parties that the COUNTY has operated the Arena in previous years at a financial deficit. For provision of the Services herein, CONTRACTOR shall collect and retain all monies arising from the operation of the Arena, including any monies collected through leasing of the Arena for events. COUNTY shall not be liable for any deficit arising from operation of the Arena unless agreed to in advance and in writing by the parties.

3. Any profits realized by CONTRACTOR during the Term of this Contract will be used to make up operating deficits incurred by CONTRACTOR during any previous year. Profits above and beyond the foregoing will be used to improve the Arena.
4. CONTRACTOR shall keep books of accounts, records, vouchers, cheques, papers and documents within accepted accounting principles and in a manner acceptable to the COUNTY.

#### **IV. GENERAL CONDITIONS**

The parties further agree as follows:

##### **1. CONTROL**

All Services by the CONTRACTOR will be performed in a manner satisfactory to the COUNTY, and in accordance with the generally accepted business practices and procedures of the COUNTY.

##### **2. CONTRACTOR'S PERSONNEL**

The CONTRACTOR certifies that it presently has adequate qualified personnel to perform all Services required under this Contract. All work performed during the Term of this Contract will be supervised by the CONTRACTOR. The CONTRACTOR further certifies that all of its employees assigned to serve the COUNTY have such knowledge and experience as required to perform the duties assigned to them. Any employee of the CONTRACTOR who, in the opinion of the COUNTY, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with the Services under this Contract.

##### **3. INDEPENDENT STATUS**

- a. Nothing in this Contract shall be deemed to represent that the CONTRACTOR, or any of the CONTRACTOR's employees or agents, are the agents, representatives, or employees of the COUNTY. The CONTRACTOR will be an independent CONTRACTOR over the details and means for performing the Services under this Contract. Anything in this Contract which may appear to give the COUNTY the right to direct the CONTRACTOR as to the details of the performance of the Services under this Contract or to exercise a measure of control over the CONTRACTOR is solely for purposes of compliance with local, state and federal regulations and means that the CONTRACTOR will follow the desires of the COUNTY only as to the intended results of the scope of this Contract.
- b. It is further expressly agreed and understood by CONTRACTOR that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the COUNTY; that CONTRACTOR has been retained by the COUNTY to perform the Services specified herein (not hired) and that the remuneration specified herein is considered fees for the Services performed (not

wages) and that invoices submitted to the COUNTY by CONTRACTOR for the Services performed shall be on the CONTRACTOR's letterhead.

4. TERMINATION OR ABANDONMENT

- a. It shall be cause for the immediate termination of this Contract if, after its execution, the COUNTY determines that:
  - i) Either the CONTRACTOR or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has pled nolo contendere, or has pled or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or
  - ii) CONTRACTOR has subcontracted, assigned, delegated, transferred its rights, obligations or interests under this Contract without the COUNTY's consent or approval; or
  - iii) CONTRACTOR has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer has been appointed to take charge of all or part of CONTRACTOR assets.
- b. The COUNTY may terminate the Contract upon thirty (30) days written notice by the COUNTY or its authorized agent to the CONTRACTOR for CONTRACTOR's failure to provide the Services specified under this Contract.
- c. This Contract may be terminated by either party by giving one-hundred eighty (180) days written notice to the other, before the effective date of termination (the "Termination Date"). All Services completed by CONTRACTOR prior to the Termination Date shall be documented and tangible work documents shall be transferred to and become the sole property of the COUNTY prior to payment for the Services rendered.
- d. Notwithstanding the above or any section herein to the contrary, CONTRACTOR shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of the Contract by CONTRACTOR and the COUNTY may withhold any payments to CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due the COUNTY from CONTRACTOR is determined.

5. SUBCONTRACTING, ASSIGNMENT OR TRANSFER

- a. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by

written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the CONTRACTOR from performance of the Services under this Contract. The COUNTY shall not be responsible for the fulfillment of the CONTRACTOR's obligations to its transferors or subcontractors.

- b. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the subcontract, assignment, delegation or transfer.

6. CONFLICT OF INTEREST

The CONTRACTOR covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of the Services. The CONTRACTOR warrants that no part of the total Contract Fee shall be paid directly or indirectly to any officer or employee of the COUNTY as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the CONTRACTOR in connection with any work contemplated or performed relative to this Contract.

7. CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the COUNTY will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

8. EMPLOYMENT OF COUNTY WORKERS

The CONTRACTOR will not engage, on a full, part-time, or any other basis during the Term of the Contract, any professional or technical personnel who are or have been at any time during the Term of the Contract in the employ of the COUNTY.

9. ACCESS TO RECORDS

During all phases of the work and Services to be provided hereunder, CONTRACTOR agrees to permit duly authorized agents and employees of the COUNTY to enter CONTRACTOR's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The CONTRACTOR will maintain all books, documents, papers, accounting records, and other evidence pertaining to the Fee paid under this Contract and make such materials available at their offices at all reasonable times during the Term of this Contract and for three (3) years from the date of payment under this Contract for inspection by the COUNTY or by any other governmental entity or agency participating in the funding

of this Contract, or any authorized agents thereof. Copies of said records shall be furnished to the COUNTY upon request.

10. ARBITRATION

Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the CONTRACTOR and the COUNTY will be referred to the Shelby County Contract Administrator or its duly authorized representative, whose decision regarding same will be final.

11. RESPONSIBILITIES FOR CLAIMS AND LIABILITIES

- a. CONTRACTOR shall indemnify, defend, save and hold harmless the COUNTY, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the Services hereunder, whether performed by the CONTRACTOR its subcontractors, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.
- b. CONTRACTOR expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the CONTRACTOR shall in no way limit the responsibility to indemnify, defend, save and hold harmless the COUNTY or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.
- c. The COUNTY has no obligation to provide legal counsel or defense to CONTRACTOR or its subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against CONTRACTOR as a result of or relating to performance of the Services under this Contract.
- d. Except as expressly provided herein, the COUNTY has no obligation for the payment of any judgment or the settlement of any claims against CONTRACTOR as a result of or relating to performance of the Services under this Contract.
- e. CONTRACTOR shall immediately notify the COUNTY of any claim or suit made or filed against CONTRACTOR or its subcontractors regarding any matter resulting from or relating to CONTRACTOR's performance of the Services under this Contract and will cooperate, assist and consult with the COUNTY in the defense or investigation thereof.

12. GENERAL COMPLIANCE WITH LAWS

- a. The CONTRACTOR certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of the Services under this Contract.
- b. The CONTRACTOR is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the performance of the Services. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).
- c. This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Contract, the CONTRACTOR agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

13. NON-DISCRIMINATION

The CONTRACTOR hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the CONTRACTOR on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The CONTRACTOR shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

14. ENTIRE AGREEMENT

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether oral or written.

15. AMENDMENT

This Contract may be modified or amended only by written instrument signed by both parties.



16. SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as possible.

17. NO WAIVER OF CONTRACTUAL RIGHT

No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

18. MATTERS TO BE DISREGARDED

The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.

19. SUBJECT TO FUNDING

This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the Term hereof, then this Contract will be terminated. In the event of such termination, the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date.

20. NON-LIABILITY FOR CONTRACTOR EMPLOYEE TAXES

Neither CONTRACTOR nor its personnel are COUNTY's employees, and COUNTY shall not take any action or provide CONTRACTOR's personnel with any benefits and shall have no liability for the following:

- a. Withholding FICA (Social Security) from CONTRACTOR's payments;

- b. Making state or federal unemployment insurance contributions on behalf of CONTRACTOR or its personnel;
- c. Withholding state and federal income tax from payment to CONTRACTOR;
- d. Making disability insurance contributions on behalf of CONTRACTOR;
- e. Obtaining workers' compensation insurance on behalf of CONTRACTOR or CONTRACTOR's personnel.

21. INCORPORATION OF OTHER DOCUMENTS

- a. CONTRACTOR shall provide Services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for Proposals/Bids as well as the Response of CONTRACTOR thereto, all of which are maintained on file within the Shelby County Purchasing Department and incorporated herein by reference.
- b. It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

22. CONTRACTING WITH LOCALLY OWNED SMALL BUSINESSES

The CONTRACTOR shall take affirmative action to assure that Locally Owned Small Businesses that have been certified by the COUNTY are utilized when possible as sources of supplies and equipment, construction and services.

23. RIGHT TO REQUEST REMOVAL OF CONTRACTOR'S EMPLOYEES

The COUNTY may interview the personnel CONTRACTOR assigns to COUNTY's work. CONTRACTOR shall have the right, at any time, to request removal of any employee(s) of CONTRACTOR, whom COUNTY deems to be unsatisfactory for any reason. Upon such request, CONTRACTOR shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training.

24. INCORPORATION OF WHEREAS CLAUSES

The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

25. DISCLOSURE OF REPORTS, DATA OR OTHER INFORMATION

Notwithstanding anything to the contrary contained herein or within any other document supplied to COUNTY by CONTRACTOR, CONTRACTOR understands and acknowledges that COUNTY is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to COUNTY by CONTRACTOR due to Services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

26. ORGANIZATION STATUS AND AUTHORITY

- a. CONTRACTOR represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.
- b. The execution, delivery and performance of this Contract by the CONTRACTOR has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of CONTRACTOR, any provision of any indenture, agreement or other instrument to which CONTRACTOR is a party, or by which CONTRACTOR's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

27. INSURANCE REQUIREMENTS

- a. The CONTRACTOR shall purchase and maintain, in a company or companies licensed to do business in the State of Tennessee, such insurance as will protect the County from claims which may arise out of or result from the CONTRACTOR's operations under the Contract, whether such operations are performed by himself or by any subcontractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the CONTRACTOR or subcontractor may be liable. The CONTRACTOR shall also require insurance coverage as outlined herein of any entity or individual that leases or uses the Arena for any event(s).
- b. The insurance required shall be written for not less than any limits of liability specified or required by law, whichever is greater. Shelby County Government, its elected officials, appointees and employees will be named as additional insured. The CONTRACTOR will maintain throughout the life of this Contract insurance, through insurers rated A- or better by A.M. Best, in the following minimum requirements:

- i) Commercial General Liability coverage with minimum limits of \$1,000,000.00 per occurrence/\$2,000,000.00 annual aggregate premises/operations coverage, \$2,000,000.00 annual aggregate products/completed operations.
  - ii) Workers Compensation coverage, including coverage for sole proprietors, partners, and officers, regardless of requirement by Tennessee State Statute.
  - iii) Commercial Auto Liability with minimum limit of \$1,000,000.00 for all owned, hired and non-owned autos.
- c. CONTRACTOR shall provide County with a current copy of the Certificate of Insurance at the time of contracting and shall maintain said insurance during the entire Contract period as well as provide renewal copies on each anniversary date. The certificate holder is to read:
- Shelby County Government  
Purchasing Department  
160 N. Main, Suite 550  
Memphis, TN 38103
- d. Upon termination or cancellation of insurance currently in effect under this Contract, the CONTRACTOR shall purchase an extended reporting endorsement and furnish evidence of same to the County.

28. NOTICE

Any notices required or permitted to be given under the provisions of this Contract shall be effective only if in writing and delivered either in person to the COUNTY's authorized agent or by First Class or U.S. Mail to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided:

COUNTY: Shelby County Public Works Department  
160 N. Main Street  
Memphis, Tennessee 38103  
Attn.: Mr. Ted Fox, Director

And

Shelby County Government  
Contract Administration  
160 N. Main St., Suite 550  
Memphis, Tennessee 38103

VENDOR: Agricenter International  
7777 Walnut Grove Road  
Memphis, Tennessee 38120  
Attn: Mr. John Charles Wilson, President

IN WITNESS WHEREOF, the parties hereto have set their signatures for the purposes contained herein, on the day and date first above written.

APPROVED:

SHELBY COUNTY GOVERNMENT

\_\_\_\_\_  
Contract Administrator/  
Assistant County Attorney  
**AGRICENTER INTERNATIONAL**

\_\_\_\_\_  
A C Wharton, Jr., Mayor

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

CORPORATE ACKNOWLEDGMENT

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the \_\_\_\_\_, the within named bargainor, a corporation, and that he as such \_\_\_\_\_, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as \_\_\_\_\_.

WITNESS my hand and official seal at office this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_